IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 25TH JANUARY 2007 / 5TH MAGHA 1928

WP(C).No. 28945 of 2004(U)

PETITIONER:

ABRAHAM JOSE, VELLAPILLIL HOUSE,
PIRAVOM P.O., ERNAKULAM DISTRICT.

BY ADV. SRI.BIJI MATHEW
SMT.A.K.RAJASREE

RESPONDENTS:

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1. THE SECRETARY, NARAKKAL GRAMA PANCHAYAT
NARAKKAL, ERNAKULAM.

2. THE EXECUTIVE ENGINEER,
P.W.D. BUILDING DIVISION, ERNAKULAM.

BY ADV. SRI.K.S.MADHUSOODANAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C.KURIAKOSE, J.

W.P.(C)NO.28945 of 2004

Dated this 25th day of January, 2007

JUDGMENT

This writ petition has been filed by a contractor to the Narakkal Grama Panchayat complaining of non payment of the bills even after satisfactory execution of the works. The total bill amount is Rs.2,59,649/-.

2. The Panchayat has filed a detailed counter affidavit producing Ext.R1(B) resolution of the Panchayat by which it is decided not to make payments for the time being, but payments should be made only after appropriate instructions are received in the matter from the Deputy Director of the Panchayat. It is stated in the counter affidavit that Ext.R1 (b) was forwarded to the Deputy Director on 7.6.2004 as soon as decision was taken. The Panchayat Secretary is yet to hear anything from the Deputy Director on Ext.R1(b). The Deputy Director was impleaded as additional 3rd respondent. The Government Pleader is yet to get instructions from the additional 3rd respondent. He is having instructions only from the Executive Engineer. Obviously, Ext.R1(b) is pending before the additional 3rd respondent. There

is no justification for the additional 3rd respondent not taking any decision on the request of the Panchayat made through the last paragraph of Ext.R1(b). The learned counsel for the petitioner submits hat out of the total bill amount of Rs.3,59,649/- the disputed portion is only Rs.52,330/-. The learned counsel for the Panchayat however would refer to the 3rd para in Ext.R1(b) and submit that the the engineers have reported that the bridge constructed by the petitioner is sinking. The above submission is strongly refuted by the learned counsel for the petitioner who invited my attention to Ext.P2. In fact Ext.P2 is issued by the Executive Engineer. The learned Government Pleader submitted that as per the instructions received from the Executive Engineer the defects have been rectified. Under these circumstances, I am of the view that there is no justification for withholding the entirety of the amounts payable to the petitioner under the bill submitted by him. Accordingly, the writ petition will stand disposed of with the following directions:

1). the additional 3rd respondent will take a decision on the request of the Panchyat in Ext.R1 (b) (if not already taken) and

communicate the decision to the Panchayat under intimation to the petitioner within one month of receiving a copy of this judgment. In the meanwhile the Panchayat will release part payment of Rs.1,50000/- (Rupees One Lakh Fifty Thounsand only) to the petitioner against the bills submitted by him. This the Panchayat will do within three weeks of receiving a copy of this judgment.

PIUS C.KURIAKOSE
Judge

dpk